Supreme Court, U.S.
FILED

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NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2000

DAVID ADOFO-KISSI, Petitioner

v.

UNITED STATES, Respondent

PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

DAVID ADOFO-KISSI, Pro Se
4305 AMMENDALE RD.
BELTSVILLE, MD 20705
301-937-2144

1699

QUESTION PRESENTED

Does the U.S. Court of Appeals for the Fourth Circuit contradict Maryland when it declined the Petitioner's request for hearing to vacate a default judgment?

PARTIES TO THE PROCEEDING:

PETITIONER:

DAVID ADOFO-KISSI

RESPONDENT:

U.S. GOVERNMENT

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OCTOBER TERM, 2000

DAVID ADOFO-KISSI, Petitioner

v.

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PETITION FOR WRIT OF CERTIORARI

TO THE U.S. COURT OF APPEALS

FOR THE FOURTH CIRCUIT

Petitioner, David Adofo-Kissi, a pro se, submits this Writ of Certiorari to have reviewed the Fourth Circuit's denial of his petition to set aside a default judgment that the Lower Court had granted to the U.S. without a hearing that left a disputed debt uncontested.

OPINIONS BELOW

Appendix A shows U.S. District Court's order for a default judgment dated August 18, 1998 and its subsequent denial of Petitioner's motion for a hearing dated January 13, 1999 (see Appendix B). Finally, U.S. Fourth Circuit's affirmation of the Lower Court's ruling dated April 20, 1999 is shown here as Appendix C.

JURISDICTION

The next stop for a review is at this Court and this jurisdiction is affirmed by 28 USC 2403(a) because this review concerns a 14th Amendment issue (see Appendix D).

Petitioner also believes that this Court's review is warranted since the Lower Court's ruling in this case contradicts Maryland Rule 2-311(f).

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED HERE

Amendment 14 to the U.S. Constitution is set forth in Appendix D.

STATEMENT OF THE CASE

This is simply a case where the Appellee is falsely claiming that the Appellant was properly served with a court summons in regards to an attempt to collect a disputed US debt. Now on August 18, 1998, when the Lower Court granted a default judgment against the Appellant, he timely requested it should be set aside on the grounds that:

1) The judgment was defective and erroneously granted.

2) That at least the Appellant should be granted a hearing. But the U.S. District Court rejected his pleading for a hearing. On April 20,

1999, the Fourth Circuit Court sided with the Lower Court. For the record, this Court should note that since there wasn't any hearing, no transcripts of the entire proceedings exist that the Petitioner is aware of.

ARGUMENT

Now, the issue is if Maryland Rule 2-311(f) says that a case cannot be disposed of without a hearing, then the U.S. District Court clearly erred when it rejected the Petitioner's request for one - see Appendix B. Actually, since the Petitioner's main point of contention for not showing up in Court to contest the summons was that he was never served with the initial summons pursuant to Federal Rule 4 (see sections c(1), c(2) and e, the Lower Court ought to have held a hearing after the

Petitioner timely filed his motion to set aside the default judgment to determine both the Petitioner's and the Process Server's credibility. Therefore, a fact finding hearing was warranted. But by siding with the Respondent, it appears, the Lower Court had prejudiced the Petitioner without granting him the benefit of doubt and subsequently has denied him his due process under the 14th Amendment Section 1. The Petitioner further cites the following cases to show that the Lower Courts in one way or other, after the default judgment, have abridged his rights: Karl v. Blue Cross, 100 MD App 743, 1994; Moore v. Boyd, 62 So 2d 427; Pan American World Airways, Inc. v. Gregory, 96 So 2d 699; White v. Spears, 123 So 2d 689; and Harbour Tower

Development Corp. v. Seaboard Equipment Co., 179 So 2d 405.

CONCLUSION

Petitioner pleads the defective default judgment should be set aside pursuant to Federal Rule 60(b)(3).

Dated July 16th, 1999.

Respectfully Submitted by,

David A. Kissi

David Adofo-Kissi, Pro Se

APPENDIX A
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA	*	
PLAINTIFF	*	CIVIL:PJM-98-1176
vs.	*	
DAVID ADOFO-KISSI	*	
a/k/a David Adojo-Kissi	*	
DEFENDANT	*	

CLERK'S ORDER OF DEFAULT

It appears from records and/or Affidavit of Tamera Fine, that the Summons and complaint were properly served upon the above named defendant on June 18, 1998, as to defendant and that the said time for defendant to plead or otherwise defend expired on July 8, 1998.

Therefore, upon request of plaintiff, and pursuant to Rule 55 of the Federal Rules of Civil Procedure, it is ORDERED that the default for want of answer or other defense by said defendant is entered this 18th day of August, 1998.

FRANK L. MONGE, CLERK
/s/ ELLA STALLINGS PETERSON
DEPUTY CLERK

APPENDIX B
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT, MARYLAND

United States of America	*	
Plaintiff	*	
v.	*	Civil: PJM-98-1176
David Adofo-Kissi,	*	
Defendant	*	

Motion to Set Aside
Default Judgment (Appendix A)
Pursuant to U.S. Rule 60(b)

Now, comes the Defendant pleading that this Court should set aside the said default judgment on the grounds that:

1. He was never served with any court notice prior to the default judgment and;

2. That being the case, the Plaintiff has obtained the said default judgment by fraud and misrepresentation and this Honorable Court should set aside the said default judgment as required by U.S. Rule 60(b).

APPENDIX B (con't)

'Request for a Hearing'

Defendant also requests a hearing once the default judgment is set aside to allow him to present his defense denying the claim.

Conclusion

Thus, with the evidence presented that Service of Summons was never served on the Defendant, it's proper for this Court to reverse the default judgment.

Respectfully Submitted by:

/s/David Kissi, Pro se

APPENDIX C

PER CURIAM:

David Adofo Kissi appeals the district court's order denying his motion for reconsideration of the default judgment entered against him. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See United States v. Kissi, No. CA-98-1176-PJM (D. Md. Jan. 19, 1999). We dispense with oral argument because facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

APPENDIX D

AMENDMENT 14 TO THE U.S. CONSTITUTION

AMENDMENT XIV

(Ratified July 9, 1868)

SECTION i. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.